

REMARKS

Applicant has carefully reviewed the Application in light of the Office Action mailed May 7, 2007. At the time of the Office Action, Claims 1-21 were pending in the Application. Claims 1-21 stand rejected. Applicant amends Claims 1, 6, 11, 14, and 18 and cancels Claims 2, 7, 12, 15, and 19 without prejudice or disclaimer. The amendments and cancellations to these claims are not the result of any prior art reference and, thus, do not narrow the scope of any of the claims. Furthermore, the amendments are not related to patentability issues and only further clarify subject matter already present. All of Applicant's amendments have only been done in order to advance prosecution in this case. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Section 101 Rejection

The Examiner rejects Claims 18-21 under 35 U.S.C. §101 suggesting the claimed invention is directed to non-statutory subject matter. Applicant hereby defers this issue until the substantive patentability of the pending claims is resolved. In the alternative, Applicant is certainly open to a suggested Examiner Amendment to cure this issue and comply with the ever-changing guidance from the USPTO in regards to §101 issues. If the Examiner remains adamant about this issue, Applicant can certainly appeal this matter if necessary.

Section 102 Rejection

The Examiner rejects Claims 1-21 under 35 U.S.C. §102(e) as being anticipated by U.S. Publication No. 2003/0221016 A1 issued to *Jouppi*, et al. (hereinafter "*Jouppi*"). This rejection is respectfully traversed for the following reasons.

Applicant respectfully reminds the Examiner that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.¹ In addition, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claims" and "[t]he elements must be arranged as

¹ *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987); MPEP §2131.

required by the claim.”² In regard to inherency of a reference, “[t]he fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic.”³ Thus, in relying upon the theory of inherency, an Examiner must provide a basis in fact and/or technical reasoning to support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.⁴

Independent Claim 1, as amended, recites an apparatus for relaying information in a network environment that includes a gateway general packet radio service (GPRS) support node (GGSN) operable to establish primary and secondary packet data protocol (PDP) links on behalf of an end user, wherein the GGSN is operable to communicate traffic pattern information associated with the primary and secondary PDP links to a client services packet gateway (CSPG), the traffic pattern information providing data associated with how traffic flows propagating via each of the primary and secondary PDP links are to be treated in a network, *wherein a table is included within the CSPG that is operable to store the traffic pattern information such that it may be referenced by the CSPG to provide two different quality of service levels for the primary and secondary PDP links.*

The main reference, *Jouppi*, fails to account for these limitations. At the purportedly relevant passage cited for this subject matter, *Jouppi* fails to offer any discussion of how a gateway could provide two different quality of service levels for the primary and secondary PDP links. In no event does *Jouppi* even contemplate such selected service levels, which are now clearly outlined in Independent Claim 1. Moreover, there is simply nothing in any reference of record that teaches how differentiated billing amongst primary and secondary PDP links could be executed via traffic pattern information. In essence, *Jouppi* cannot present a barrier to patentability for any Independent Claim that recited such features. For at least this reason, Independent Claim 1 is clearly patentable over *Jouppi*.

² *Richardson v. Suzuki Motor Co.*, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989); *In re Bond*, 15 USPQ 2d 1566 (Fed. Cir. 1990); MPEP §2131 (*emphasis added*).

³ MPEP §2112 (citing *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ 2d 1955, 1957 (Fed. Cir. 1993) (*emphasis in original*)).

⁴ MPEP §2112 (citing *Ex Parte Levy*, 17 USPQ 2d 1461, 1464 (Bd. Pat. at App. and Inter. 1990) (*emphasis in original*)).

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In addition, Independent Claims 6, 11, 14, and 18 recite similar, but not identical limitations, and, therefore, are also allowable using analogous reasons. Using similar reasoning, their respective dependent claims are also allowable. Notice to this effect is formally requested in the form of a full allowance of the pending claims.

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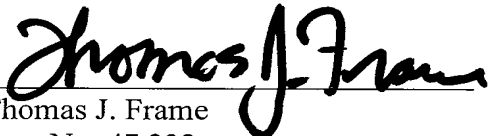
CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

Applicant believes no fee is due. However, if this is not the case, the Commissioner is hereby authorized to charge any amount required or credit any overpayment to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact Thomas J. Frame at 214.953.6675.

Respectfully submitted,
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